

Filed for intro on 02/03/2000

HOUSE BILL 2904

By Buck

AN ACT to amend Chapter 208 of the Acts of 1909; as amended by Chapter 464 of the Private Acts of 1911; Chapter 94 of the Private Acts of 1915; Chapter 58 of the Private Acts of 1977 and Chapter 18 of the Private Acts of 1995; and any other acts amendatory thereto; and to repeal Chapter 464 of the Private Acts of 1911; Chapter 94 of the Private Acts of 1915; Chapter 58 of the Private Acts of 1977 and Chapter 18 of the Private Acts of 1995, relative to the charter of the Town of Gordonsville.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 208 of the Acts of 1909, as amended by Chapter 464 of the Private Acts of 1911, Chapter 94 of the Private Acts of 1915, Chapter 58 of the Private Acts of 1977, and Chapter 18 of the Private Acts of 1995, being the charter of the Town of Gordonsville, is amended by deleting the charter in its entirety, except for the section in which the stated boundaries of the Town are established, and by substituting instead Sections 2 through 19 of this act as the charter of the Town of Gordonsville.

SECTION 2. The stated boundaries of the Town of Gordonsville, in the county of Smith, State of Tennessee, shall be those contained in Chapter 208 of the Acts of 1909, as amended, or as enlarged through annexation or other acquisitions.

SECTION 3. In addition to the general powers set out in Section 8 of this charter, the Mayor and Aldermen of the Town of Gordonsville shall have perpetual succession; may sue and be sued, implead and be impleaded in all the courts of law and equity; may purchase, receive, and hold real, personal, and mixed property within said town for municipal purposes; and may purchase, receive, hold, sell, lease, or dispose of property, both real and personal, for the benefit of the Town of Gordonsville; and to do all other acts in and about the same as natural persons. They shall have and use a common seal, which may be changed at pleasure.

SECTION 4. The officers of the town, to be chosen and elected by the qualified voters of the town, shall be a Mayor and five (5) Aldermen, who shall constitute the Board of Mayor and Aldermen, hereinafter referred to as the "Board." Each and all of the said officers shall be citizens and qualified voters of said town.

SECTION 5. The Election Commission of Smith County, Tennessee, shall conduct an election in the Town of Gordonsville on the first Tuesday of November, 2000, and on the same day every four (4) years thereafter for the purpose of electing a Mayor. The Mayor's term of office shall be four (4) years and until a successor is elected and qualified. The Election Commission shall likewise hold an election on the first Tuesday of November, 2000, and on the same day every two (2) years thereafter for the purpose of electing Aldermen. The term of office of Aldermen shall be four (4) years and until their successors are elected and qualified. For the purpose of staggering terms, at the election conducted on the first Tuesday of November, 2000, five (5) Aldermen shall be elected, two (2) of whom shall be elected for four-year terms and three of whom shall be elected for two-year terms. The two (2) candidates receiving the largest number of votes shall be elected for the four-year terms, and the three (3) candidates receiving the next largest number of votes shall be elected to two-year terms. At all subsequent elections, Aldermen shall be elected for the four-year terms as provided herein. The Mayor and Aldermen shall be elected by the qualified voters of the Town of Gordonsville, and candidates receiving the highest number of votes shall be elected. In the event that two (2) or

more candidates receive an equal number of votes for Mayor or Aldermen, the election shall be determined by a majority vote of the Board-elect. No person shall be elected Mayor or Alderman unless he or she is a bona fide resident and citizen of the Town of Gordonsville for not less than one (1) year previous to and next before his or her election. The Mayor and Aldermen shall be residents of the Town and failure to maintain such residency shall constitute automatic forfeiture of office. The current Mayor and Aldermen of the Town of Gordonsville shall hold their respective offices until the expiration of the terms for which they were elected, and until their successors are elected and qualified.

SECTION 6. The Mayor and Aldermen, before entering upon their duties, shall each take an oath before some person qualified to administer the same that they will honestly and faithfully defend and support the Town of Gordonsville and discharge the duties of the office without fear, favor, or affection, and to support the Constitution of the United States and the State of Tennessee.

SECTION 7. The legislative powers of the said town shall be exercised by the Board of Mayor and Aldermen, consisting of the Mayor and Aldermen, over whose meetings the Mayor shall preside and cast the deciding vote in case of a tie. A majority of all the Aldermen shall constitute a quorum for the transaction of business.

SECTION 8. General powers. The Board of Mayor and Aldermen may:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;
- (2) Adopt classifications of the subject and objects of taxation that are not contrary to law;
- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable interest-bearing or non-interest-bearing bonds, warrants, promissory notes or orders of the town, upon the credit of the town or solely upon the credit of specific property owned by the town or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the town, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the town for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the town or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the town, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Title 29, Chapter 16, of Tennessee Code Annotated, or any other manner provided by law;

(10) Take and hold property within or without the town or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the town, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the Local Government Public Obligations Act, Title 9, Chapter 21, of Tennessee Code Annotated;

(12) Grant to any person, firm, association or corporation (including the town) franchises for public utilities and public services to be furnished to the town and those

therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the town itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the town at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys, and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the town and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the town at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys, and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any

of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of Sections 7-31-107 through 7-31-111 and 29-15-114 of Tennessee Code Annotated, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, Title 7, Chapters 32 and 33 of Tennessee Code Annotated;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or the removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the Board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal. The cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the town, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the town, and charge reasonable fees therefor, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) To contract with the county to keep these persons who violate laws within the corporate limits of the town in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse;

(28) Provide for whatever departments, offices, and employees, not otherwise specifically provided for in this charter, as necessary to conduct the town's business;

(29) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(30) Regulate, tax, license or suppress the keeping or going at-large of animals within the town, impound them, and, in default of redemption, sell or kill them;

(31) Call elections as herein provided; and

(32) Have and exercise all powers that now or hereafter are within the scope of this charter as amended, whether such powers are specifically enumerated or implied. Implied powers may be exercised as fully and completely as those powers that are specifically enumerated.

SECTION 9. Ordinances and other Board Action. All legislative acts of the Board shall be in ordinance form and shall be considered and adopted on three (3) separate days. Any other form of Board action shall be considered and adopted on one (1) day. Any form of Board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the Aldermen. All ayes and nays on all votes on all forms of Board action shall be recorded.

SECTION 10. Times and Place of Meetings. The Board shall fix regular times and places of its meetings and shall meet not less than once in each month.

SECTION 11. Duties of the Mayor. The Mayor:

(1) Shall before performing any official act as Mayor, post a bond, the cost of which shall be paid out of the town treasury, in an amount to be determined by resolution of the Board, such amount to be equal to or greater than any single check or disbursement issued by the treasurer's office;

(2) Shall be the chief executive officer of the town and shall preside at all meetings of the Board;

(3) Shall communicate any information needed, and recommend measures the Mayor deems expedient to the Board;

(4) Shall carefully examine all ordinances and resolutions passed before affixing his signature. Should any ordinance or resolution not meet with his approval, he shall, at the next regular meeting of the Board, return the same, with his objections in writing. No law so vetoed shall become effective unless the same be again passed by a three-fourths (3/4) majority of the Board. No ordinance shall become a law unless the same shall have passed three (3) separate readings on three (3) separate days by a majority vote of the Board, unless by unanimous consent of the Board earlier action is deemed necessary, and unless the same shall have been signed by the Mayor, unless he fails to veto the same by the next regular meeting. In case of such failure, the same shall become a law without his signature;

(5) Shall make temporary appointments of any officer or department head except that of Alderman, arising from the absence, sickness or disability of any such officer or department head, and shall report such appointment to the Board at its next regular meeting;

(6) Shall make recommendations of all employees, full-time and part-time, of the town, provided the position has been created by the Board and that sufficient funds have been appropriated by the Board to fund the position, and shall report such recommendation to the Board at its next regular meeting. All such recommendations are

to be in accordance with personnel policies and regulations adopted by the Board. No full-time employee recommended by the Mayor and employed by a majority vote of the Board shall be terminated with a succession in office without good cause. Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(7)

(A) Shall call special meetings of the Board upon adequate notice to the Board and the public;

(B) Shall state the matters to be considered in the call for the special meeting, and the action of the Board shall be limited to those matters submitted in the call;

(8) Shall make recommendations of appointments to Board and commissioners as authorized by law and approved by the Board;

(9) Shall act as purchasing agent for the town in the purchase of all materials, supplies and equipment for the proper conduct of the town's business, provided that all purchases shall be made in accordance with policies, practices and procedures established by general law;

(10) Shall prepare and submit the annual budget and capital program to the Board for their adoption by ordinance;

(11) Shall counter-sign all checks drawn on the treasurer's office, but shall not expend any funds that have not first been appropriated by the Board; and

(12) Shall perform such other duties as may be designated or required by the Board.

SECTION 12. Vice-Mayor. Vacancies in office.

(a) The Board shall elect an Alderman within thirty (30) days to the office of Vice-Mayor who shall perform the duties of the Mayor when the Mayor is absent or

unable to discharge the duties of the Mayor's office, and, in case of a vacancy in the office of Mayor, until the next regular town election.

(b)

(1) By affirmative vote of a majority of the remaining members, the Board shall fill a vacancy in the office of Alderman for the unexpired term, but any portion of an unexpired four (4) year term for Alderman or Mayor that remains beyond the next municipal election shall be filled by the voters at that election, if the vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election.

(2) All such elections by the Board shall be made by voice vote, on the calling of the roll. If a tie vote occurs in filling a vacancy on the Board, the presiding officer shall cast the deciding vote to break the tie.

SECTION 13. Duties of the Board. In the absence of the Mayor and Vice-Mayor, the Board may elect an Alderman to act as presiding officer.

SECTION 14. Compensation. The compensation of all officers shall be established in accordance with Article XI, Section 9 of the Constitution of Tennessee, the ordinance adopting the annual budget and capital program. Compensation of the Mayor and Aldermen may not be increased or decreased during their term of office.

SECTION 15. Town Recorder.

(a) The Mayor shall recommend for Board approval a town recorder, who also may be appointed to the positions of finance director or treasurer, or both;

(b) The recorder, or his or her designee, shall attend all meetings of the Board and keep a full and accurate record of all business transacted by the Board to be preserved in permanent form;

(c) The recorder, or the recorder's designee shall have custody of, and preserve in the recorder's office, the town seal, if there is a town seal, the public records, original

rolls of ordinance, ordinance books, minutes of the Board, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds (except the recorder's bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations and all other records, papers, and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate index thereof.

(d) All such records shall be the property of the town.

(e) The recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers and documents in the recorder's office.

(f) Fees for copying and certification shall be charged as established by ordinance.

SECTION 16. Treasurer.

(a) The Mayor shall recommend for Board approval a treasurer who shall collect, receive and receipt for taxes and all other revenue and bonds of the town, and the proceeds of its bond issues, and shall disburse such taxes, revenues and bond proceeds;

(b) The Mayor may appoint the recorder as treasurer;

(c) The treasurer shall sign all checks which shall be co-signed by the Mayor;

(d) Depositories of the town funds shall be designated by ordinance. The Board shall require any financial institution that becomes a depository of town funds to secure such funds by collateral in the same manner and under the same conditions as state deposits under Tennessee Code Annotated, Title 9, Chapter 4, Parts 1 and 4, or as provided in a collateral pool created under Tennessee Code Annotated, Title 9, Chapter 4, Part 5.

SECTION 17. Town Judge. Town Court.

(a)

(1) There shall be a town court presided over by a town judge appointed by the Board or elected as provided in subsection (c).

(2) The town judge shall have jurisdiction in and over all cases for the violation of, and all cases arising under, the laws and ordinances of the town.

(b)

(1)

(A) Where the town judge is appointed, the town judge shall be a licensed attorney and have the qualifications and term of office, if any, so established by the Board and shall receive the compensation that the Board establishes.

(B) The Board may appoint the general sessions court judge of the county or counties in which the town lies to act as town judge.

(2) In the absence or disability of the town judge, the Mayor may designate a qualified person to serve as town judge or may designate the general sessions court judge of the county in which the town lies to be acting town judge until one can be appointed at the next regularly scheduled meeting of the Board, or as otherwise provided by ordinance.

(c)

(1) The Board may require, by ordinance, that the town judge meet the constitutional qualifications and be elected in the same manner as a judge of an inferior court. Constitutional provisions applicable to judges of inferior courts shall apply to the elected town judge.

In addition to jurisdiction over the violation and alleged violation of municipal ordinances, a town judge elected pursuant to this subdivision is vested with concurrent jurisdiction and authority with courts of general sessions, as set forth in Title 40 of Tennessee Code Annotated, in all cases of the violation or alleged violation of the criminal laws of the State of Tennessee within the limits of the town.

(2) If an elected town judge is unable, temporarily, to preside over town court for any reason, then the judge shall appoint a general sessions judge of the

county within which the town lies to sit in the judge's place. If no general sessions judge is available, then the town judge shall appoint an attorney, meeting the same qualifications as a general sessions judge, to sit temporarily.

SECTION 18. Power to enforce ordinances.

(a) The town judge may impose fines, costs and forfeitures and may punish by fine for violation of town ordinances, unless such jurisdiction and authority is limited or restricted by state law.

(b) The town judge may preserve and enforce order in the court and enforce the collection of all fines, costs and forfeitures imposed.

(c) When a person defaults on the payment of any fines or forfeitures imposed or fails to give good and sufficient security for the payment of any fines or forfeitures imposed, the judge shall follow the procedure set out in Tennessee Code Annotated, Section 40-24-104. No such imprisonment shall exceed the period of time established in Tennessee Code Annotated, Section 40-24-104, for any one (1) offense. The town judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision.

SECTION 19. Town Attorney. The town attorney shall be an attorney-at-law entitled to practice in the courts of the State of Tennessee. The town attorney shall be appointed by the Board and shall direct the management of all litigation in which the town is a party; represent the town in all legal matters and proceedings in which the town is a party or interested, or in which any of its officers are officially interested; attend all meetings of the Board; advise the Mayor and Board, and committees or members thereof, and the heads of all departments and divisions as to all legal questions affecting the town's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the town. The town attorney's compensation shall be fixed by the Board, and the town attorney shall serve at the will of the Board.

SECTION 20. Chapter 464 of the Private Acts of 1911 is repealed.

SECTION 21. Chapter 94 of the Private Acts of 1915 is repealed.

SECTION 22. Chapter 58 of the Private Acts of 1977 is repealed.

SECTION 23. Chapter 18 of the Private Acts of 1995 is repealed.

SECTION 24. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the Town of Gordonsville. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 25. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 24.